

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DIVISION OF TEXAS
BEAUMONT DIVISION**

No. 1:11-CR-52

United States of America

v.

Christopher James Gardner

Defendant

**Report and Recommendation Re:
Defendant's Competency to Stand Trial**

Pursuant to 28 U.S.C. § 636(b) and the Local Rules for the United States District Court for the Eastern District of Texas, this criminal proceeding is before the undersigned United States magistrate judge.

On May 17, 2011, the court ordered a psychiatric or psychological exam to determine if defendant was suffering from a mental disease or defect rendering him mentally incompetent to the extent he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense. Docket No. 17. Defendant subsequently received an evaluation by David E. Morrow, Ph.D., forensic psychologist, at the Federal Detention Center in Englewood, Colorado; Dr. Morrow returned his report on July 29, 2011.

The psychiatric report concludes that, in the opinion of Dr. Morrow, defendant is mentally competent to stand trial. The report indicates there is no evidence to indicate Mr. Gardner suffers from a mental disorder that would substantially impair his present ability to understand the nature and consequences of the court proceedings against him, or his ability to properly assist counsel in his defense.

A competency hearing was conducted on September 6, 2011. At the hearing, defendant appeared in court with counsel, Bernard Shealy, Esq. The court admitted into evidence under seal the psychological report detailing the results and findings. Counsel for the government, counsel for defendant, and defendant indicated no objections to the competency findings in the report.

The undersigned therefore concludes that defendant is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense. Defendant has a rational and factual understanding of the proceeding against him, and he has sufficient present ability to consult with his attorney with a reasonable degree of rational understanding. 18 U.S.C. § 4241(d); see also Dusky v. United States, 362 U.S. 402, 80 S. Ct. 788, 4 L. Ed. 2d 824 (1960).

RECOMMENDATION

The court should find defendant competent to stand trial because he understands the proceeding against him and has the ability to assist his attorney under Title 18 U.S.C. § 4241.

OBJECTIONS

Title 28 U.S.C. § 636 normally gives parties fourteen (14) days to object to recommendations submitted by magistrate judges. However, as the parties have agreed that defendant is competent, and this report recommends that defendant be found competent, the court may act on the report and recommendation immediately.

SIGNED this 6th day of September, 2011.



Zack Hawthorn
United States Magistrate Judge